THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.22143 of 2007

Date : 7-12-2007

Between :

Perumandla Lalitha w/o. Prabhakar .. Petitioner

And

The District Collector,
Nalgonda District
and others .. Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

W.P.No.22143 of 2007

ORDER:

1. This Court issued notice before admission on 12-10-2007. Interim suspension was granted for a limited period which is being extended subsequent thereto for further limited period. Counter affidavit is filed by respondents 1 to 3.

2. Heard Sri B.Venkatadri, the learned Counsel representing the petitioner and the learned Assistant Government Pleader for Civil Supplies representing the respondents 1, 2 and 3 and Sri A.Prabhakar, Counsel representing the 4th respondent.

3. The Writ Petition is filed for a Writ of Certiorari calling for the records from the 1st respondent by setting aside the order dated 1-10-2007 vide Case No.CS1/1249/07 and consequently permit the petitioner to supply essential commodities to the cardholders of Fair Price Shop-2 of Perkakondaram Village of Shaligowraram

Mandal, Nalgonda District as permitted by the Joint Collector by order dated 3-9-2007 and to pass such other suitable orders.

4. It is stated that the petitioner was appointed as Fair Price Shop Dealer for Shop No.2, Perkakondaram Village, Shaligowraram Mandal in the year 1994 and eversince then the petitioner had been supplying the essential commodities to the cardholders without any complaint whatsoever from any corner and also from the officials concerned in the Civil Supplies Department. Further it is stated that the petitioner had been regularly supplying the essential commodities to the cardholders and there is no complaint or misconduct on behalf of the petitioner or there is any allegation of black marketing or diversion of stocks. It is also stated that the Revenue Divisional Officer on a representation of the villagers that the petitioner's had been is working as Teacher cancelled the petitioner's authorisation on 12-5-2007. Further it is stated that at the time of appointment as Fair Price Shop Dealer in the year 1994, the petitioner's had been was unemployed and only in the year 1998 he was appointed as a School Teacher. As per Clause 12(iii) of the guidelines issued for appointment of Fair Price Shop Dealers in G.O.Ms.No.53, CA, F&CS Department, dated 6-10-2003 "Close relations of the Government employees

specially those working in Civil Supplies Department or Revenue Department or the Civil Supplies Corporation or Village Administrative Officer of the Village shall not be appointed as Fair Price Shop Dealer". It is stated that the petitioner is residing at Perkakondaram village and supplying the essential commodities properly and regularly to the cardholders. It is also further stated that against the cancellation of the order dated 12-5-2007 by the Revenue Divisional Officer, the petitioner preferred an Appeal before the Joint Collector, Nalgonda and the Joint Collector was pleased to allow the Appeal on 3-9-2007 vide Case No.CS1/876/07. Since the Appeal was allowed by the Joint Collector, Nalgonda, the Revenue Divisional Officer, Nalgonda wrote a letter to the Tahsildar on 12-9-2007 to implement the orders dated 3-9-2007 of the Joint Collector and allow the petitioner to distribute the essential commodities to the cardholders of the Perkakondaram Village, Shaligowraram Mandal, Nalgonda District. It is also further stated that the temporary dealer who was in charge to distribute the essential commodities during the period of the cancellation of the petitioner's authorisation and who was distributing the essential commodities to the cardholders had filed a Revision before the Collector who was not a party to the earlier proceedings before the

Revenue Divisional Officer or before the Joint Collector and obtained stay of the orders of the Joint Collector dated 3-9-2007 in Case No.CS1/1249/2007 dated 1-10-2007 before the Collector, Nalgonda District. In such circumstances, the writ petitioner approached this Court praying for the relief specified above.

5. The relevant portion of the impugned order dated 1-10-2007, reads as hereunder :

> "The petition is taken on file as Revision. Interim stay granted on implementation of orders of the Joint Collector, Nalgonda passed in Case No.CS1/876/2007, Dated : 03-09-2007."

6. In the counter affidavit filed by the respondents 1 to 3, it is stated that the Revenue Divisional Officer, Nalgonda vide orders No.D/1560/94, dated 29-3-1994 appointed the petitioner as Fair Price Shop Dealer for Shop No.2, Perikakondaram Village of Shaligowraram Mandal and the petitioner had been functioning as Fair Price Shop Dealer since 1994. Further it is stated that complaints had been received from the card holders that the petitioner's had been is a Government employee and he is distributing the essential commodities only in holidays and causing inconvenience to the card holders. The card holders attached to the Fair Price Shop had complained to the Appointing Authority i.e., the Revenue Divisional Officer, Nalgonda alleging that Sri Prabhakar,

had been of Smt.P.Lalitha, the petitioner, is working as a Teacher since 8 years and he is distributing the essential commodities on behalf of the petitioner in holidays according to his convenience and causing inconvenience to the card holders in drawing their ration. Further it is stated that the complaint petition filed by the villagers of Perkakondaram village was got enquired through the Tahsildar, Shaligowraram by the Revenue Divisional Officer, Nalgonda and he issued show cause notice vide reference No.K/1438/06, dated 17-4-2007 directing the petitioner to submit her explanation for the charges framed therein. After consideration of the written explanation dated 25-4-2007 submitted by the petitioner, the Revenue Divisional Officer, Nalgonda having been not satisfied with the explanation, cancelled the Fair Price Shop authorisation of the petitioner observing that the continuation of the dealership of the petitioner is against the guideline No.12(iii) of G.O.Ms.No.53, CA, F&CS Department, dated 6-10-2003 since the petitioner's had been is working as a Government Teacher from 1998. Further it is stated that as per guideline No.12(iii) of G.O.Ms.No.53, CA, F&CS Department, dated 6-10-2003, *"Close relatives of Government employees specially those working in Civil Supplies Department or Revenue*

Department of the Civil Supplies Corporation or Village Administrative Officer of the village shall not be appointed as F.P. Shop Dealers". These guidelines were issued by the Government to ensure that the appointed Fair Price Shop Dealer shall devote his/her services on full time basis and will be available in the village and run the Fair Price Shop throughout the month for the convenience of the card holders in drawing their ration. Further, the petitioner's had been having Government job will provide sufficient livelihood to the family. In the present case there were complaints from the villagers that the had been of the petitioner who is a Government Teacher is distributing the essential commodities to the card holders only on holidays according to his convenience and causing inconvenience to the card holders. At the time of appointment, as the petitioner's had been was not Government employee she was appointed as Fair Price Shop Dealer. But subsequently when the petitioner's had been got Government job she had not disclosed the said fact to the appointing authority and allowed her had been to run the Shop on her behalf and caused inconvenience to the card holders and also acted contrary to the conditions of appointment. It is also further stated that aggrieved by the orders dated 12-5-2007 of Revenue Divisional Officer, Nalgonda canceling the dealership, the

writ petitioner had preferred an Appeal before the Appellate Authority i.e., the Joint Collector, Nalgonda under Clause 20 of A.P. Public Distribution System (Control) Order, 2001. The Appellate Authority had allowed the Appeal and issued orders in Case No.CS1/876/2007 dated 3-9-2007 setting aside the orders of the Revenue Divisional Officer, Nalgonda canceling the dealership of the petitioner. The Revenue Divisional Officer, Nalgonda after cancellation of the petitioner's Fair Price Shop authorisation, for smooth functioning of the Public Distribution System, had appointed Smt.Kasarla Vijayalaxmi w/o. Srinivas Reddy r/o. Perkakondaram village of Shaligowraram Mandal as temporary dealer of Fair Price Shop No.2 vide orders No.K/438/2006, dated 10-7-2007. The said dealer continued to function as temporary Fair Price Shop Dealer for the said shop till passing the orders by the Appellate Authority allowing the Appeal preferred by the petitioner. Aggrieved by the orders passed by the Appellate Authority, the temporary dealer, who had been appointed by the appointing authority to distribute the essential commodities consequent on cancellation of the dealership of the writ petitioner, had preferred a Revision under Clause 21(i) of the A.P. Public Distribution System (Control) Order 2001

before the District Court, Nalgonda. The District Court, had granted interim stay orders vide Case No.CS1/1249/2007 dated 1-10-2007 on the implementation of orders of the Joint Collector passed in case No.CS1/876/2007 dated 3-9-2007. It is also stated that the District Court, Nalgonda had taken on file the petition filed under Clause 21(ii) of A.P. Public Distribution System (Control)Order, 2001 by Smt.K.Vijayalaxmi, Temporary Fair Price Shop Dealer of Fair Price Shop No.2 of Perkakondaram village of Shaligowraram Mandal as Revision Petition and passed interim stay orders suspending the operation of the orders passed by the Joint Collector, Nalgonda under Appeal by the writ petitioner. A personal hearing was also provided to the Revision Petitioner as well as the writ petitioner on 29-10-2007 and heard the representations of both the parties and the case is reserved for passing orders in the Revision Petition by the District Collector , Nalgonda. Aggrieved by the interim suspension orders passed by the District Collector, Nalgonda, the writ petitioner preferred the pertaining Writ Petition and hence dismissal of the Writ Petition had been prayed for.

7. As can be seen from the nature of the order which was made by the 1st respondent and also the

nature of the order which was made by the 2nd respondent as well, this Court is of the considered opinion that the interim order made by the 1st respondent, that too without putting the petitioner on notice, cannot be said to be justifiable in the facts and circumstances of the case. This Court is not inclined to express any further opinion relating to the merits and demerits of the matter. Certain submissions were made relating to the locus standi of the temporary dealer to maintain the Revision. However, it is stated that in the light of the view expressed by the Full Bench, this question having been answered in the affirmative, need not be discussed in elaboration. However, there is some controversy between the Counsel representing the parties relating to affording reasonable opportunity to the parties concerned by the 1st respondent-Revisional authority. In view of the same, let the 1st respondent-Revisional authority, put all the parties on notice and further give reasonable hearing to the contesting parties and dispose of the Revision itself finally within a period of six weeks from the date of receipt of this order.

8. The Writ Petition is accordingly disposed of with the above directions. No order as to costs.

Justice P.S.Narayana

Date : 7-12-2007

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